

Prob 12B

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**PETITION TO MODIFY THE CONDITIONS OR TERM OF SUPERVISION
WITH CONSENT OF THE OFFENDER**

(Probation Form 49, Waiver of Hearing, is on file)

Offender Name: Abram CHAVEZ-GUDINO

Docket Number: 2:00CR00432-05

Offender Address: Long Beach, California

Judicial Officer: Honorable William B. Shubb
United States District Judge
Sacramento, California

Original Sentence Date: 02/28/2001

Original Offense: 18 USC 924(c)(1)(A) - Possession of Firearms in
Furtherance of Drug Trafficking Crimes
(CLASS A FELONY)

Original Sentence: 60 months Bureau of Prisons; 60 months supervised
release; \$100 special assessment

Special Conditions: Warrantless search; Financial disclosure; Correctional
treatment; Drug testing; Co-payment plan; Register as
a drug offender, if required; Cooperate with INS

Type of Supervision: Supervised Release

Supervision Commenced: 01/21/2005

Assistant U.S. Attorney: Samuel Wong **Telephone:** (916) 554-2700

Defense Attorney: Steve Bauer **Telephone:** (916) 447-8262

Other Court Action: None

RE: Abram CHAVEZ-GUDINO
Docket Number: 2:00CR00432-05
PETITION TO MODIFY THE CONDITIONS OR TERM
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PETITIONING THE COURT

To modify the conditions of supervision as follows:

Abram Chavez-Gudino, as a condition of supervision, shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer, pursuant to 18 USC 3583(d).

Abram Chavez-Gudino, as a special condition of supervision, shall refrain from using illicit drugs and alcohol, and abusing prescription medication during the period of supervision.

Justification: Mr. Chavez-Gudino is being supervised by the United States Probation Office in the Central District of California. In light of the Ninth Circuit Court of Appeals' finding in *United States v. Stephens* (9th Cir. 2005), the supervising probation officer is requesting the above-mentioned modification. Their interpretation of the *Stephens* case limits the probation officer to only three random drug tests outside of treatment, pursuant to 18 USC 3583(d). Prior to *Stephens*, upon transition from a contracted drug aftercare program, offenders in the Central District of California graduated to a modified program of aftercare services that included random testing by the probation officer. However, this modified aftercare treatment has ceased in the Central District of California in response to the *Stephens* decision. Their district does not recognize Mr. Chavez-Gudino's special condition that orders him to submit to drug testing as directed by the probation officer. Consequently, it is recommended that the Court set the maximum number of tests for the continued treatment at eight tests per month. This schedule would allow the probation officer to continue monitoring for illicit drug and/or alcohol abuse; provide intervention if needed; and reduce risk to the community. The defendant has signed a waiver, agreeing to this modification of his terms of supervision.

RE: Abram CHAVEZ-GUDINO
Docket Number: 2:00CR00432-05
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Respectfully submitted,

/s/ Kris M. Miura

KRIS M. MIURA
United States Probation Officer
Telephone: (916) 930-4305

DATED: November 9, 2005
Sacramento, California
KMM:jz

REVIEWED BY: /s/ Kyriacos M. Simonidis
KYRIACOS M. SIMONIDIS
Supervising United States Probation Officer

THE COURT ORDERS:

(X) Modification approved as recommended.

Date: November 9, 2005


WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

RE: Abram CHAVEZ-GUDINO
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cc: United States Probation
Samuel Wong, Assistant United States Attorney
Steve Bauer, Defense Counsel
Defendant
Court File

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Attachment: Presentence Report (Sacramento only)